

# **EXHIBIT M**

DAVID T. MALOOF (DM 3350)  
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*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
NIPPONKOA INSURANCE COMPANY  
LIMITED,

07 Civ. 10498 (DC)

Plaintiff,

- against -

NORFOLK SOUTHERN RAILWAY  
COMPANY and THE KANSAS CITY  
SOUTHERN RAILWAY COMPANY,

:  
: DECLARATION OF  
: OOXZ CORPORATION  
: PURSUANT TO FRE 902  
:  
:

Defendants.  
-----x

RYOICHI IMAI hereby declares:

1. I am the manager of Fuji OOXZ Inc. ("OOZX"), located in 1500-60, Misawa, Kikukawa City, Shizuoka, Japan. My duties at OOXZ includes supervising the shipment of manufactured products. I have held this position since June 2007. In 2006 I was in the Purchasing Department, Management Planning Division. OOXZ manufactured the engine parts that are at issue in this litigation ("Engine Parts"). I make this declaration on personal knowledge.

2. OOXZ is in the business, *inter alia*, of manufacturing and shipping engine parts. I am familiar with and understand the record preparation and record keeping system of OOXZ with respect to the shipment of engine parts, both today and in 2006.

3. I attach as Exhibit A a true and complete copy of the OOZX Invoices and as Exhibit B a true and complete copy of the Packing Lists pertaining to the Engine Parts. These documents

were prepared by OOZX on or about the time of the shipment from our facility located in 1500-60, Misawa Kikukawa City, Shizuoka, Japan in the ordinary course of OOZX's regularly conducted business activity. The information contained therein was provided by an employee of OOZX with knowledge of details therein (or from information transmitted by other employees with knowledge). It is the regular business practice of OOZX to issue these types of documents and to keep them in the course of its regularly conducted business activity of selling and shipping engine parts. This type of document is prepared every time engine parts are shipped. The document reflects the type, quantity and price of the Engine Parts.

4. The document also reflects that the Engine Parts were in good order and condition at the time of loading. That is, the Engine Parts are not made available to ship to our customers unless they have passed all inspection standards at the factory. Since the parts are intended for use in automobile engines, the inspection standards are especially rigorous. I attached as Exhibit E and F true copies of the inspection standard and Process Control Chart for Engine parts, which was ruled and issued by OOZX and in effect in 2006. All Engine Parts are inspected in accordance with these inspection standards, which were followed here. Moreover, if any damage were noted while loading the engine parts container, those items would be set aside and not shipped.

5. I attach as Exhibit C a true copy of the cargo vanning certificate for the Engine Parts. The document was issued by OOZX in the ordinary course of our business of shipping engine parts. The document confirms the cargo was vanned into the container in good order and condition (as there are no adverse remarks listed).

6. I attach as Exhibit D a true copy of the cargo subrogation receipt signed by our company and confirming that our insurance company NipponKoa Insurance Co., Ltd. paid us JY 5,108,444 for the loss at issue on or about March 27, 2007. The document was prepared in the

ordinary course of OOZX's regularly conducted business activity. The information contained therein was provided by an employee of OOZX with knowledge of details therein (or from information transmitted by other employees with knowledge). It is the regular business practice of OOZX to issue these types of documents and to keep them in the course of its regularly conducted business activity of selling and shipping engine parts. This type of document is prepared every time an insurance payment is received.

Dated: February 25, 2009  
Tokyo, Japan

I declare that the foregoing is true and correct under the penalty of perjury under the laws of Japan and under the laws of the United States.

Ryoichi Imai  
RYOICHI IMAI

TO: NIPPONKOA INSURANCE CO., LTD.

In consideration of your paying to us the sum below in respect of the undermentioned goods insured with you under Policy No. stated below we hereby agree that you are subrogated to all our rights of recovery on account of any and all such loss or damage from the carriers and from any other vessels, persons or corporations that be liable therefor, and we agree to assist you in effecting such recovery; and hereby authorize you to file claims and begin suit against any such carrier vessel, person or corporation in our names, and we hereby appoint you as our attorneys, with irrevocable power to collect any and all such claims and to begin, prosecute, compromise or withdraw, either in our name or in your name but at your own expense, any and all legal proceedings which you may deem necessary to enforce such claim or claims and to execute in our names any documents which may be necessary to carry into effect the purpose of this agreement. We further agree to execute any documents which may be necessary to enable you to proceed in accordance herewith, including any and all pleadings and releases which you may request us to execute; and we agree that any money collected from any such carrier, vessel, person or corporation whether received in the first instance by the undersigned or by you, shall be the property of you.

306-03055

POLICY NO: NT35003204	AMOUNT: ¥6,108,444.-	
INTEREST: ENGINE VALVE		
NAME OF VESSEL: " OHEROKEE BRIDGE "	B/L NO: TYUS2300437	
VOYAGE: NAGOYA/LONG BEACH	ARR. DATE: 2006/4/19	

Dated 2007/3/27

Signed

フジオーゼックス株式会社

取締役営業部長 野地 俊 広



東京都港区南1-0-35 大目品川ビル4階

EXHIBIT D